

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

v.

**Criminal Action No. 3:21-CR-49
(GROH)**

**JONATHAN TOEBBE and
DIANA TOEBBE,**

Defendants.

PROPOSED COMPLEX CASE SCHEDULE

Now comes the United States of America and William J. Ihlenfeld, II, United States Attorney for the Northern District of West Virginia, by Jarod J. Douglas, Assistant United States Attorney for said District, Jessica Lieber Smolar, Special Assistant United States Attorney for said District, and S. Derek Shugert and Matthew J. McKenzie, Trial Attorneys, U.S. Department of Justice, National Security Division, and Defendant Jonathan Toebbe, by counsel Nicholas J. Compton, Esq., and Defendant Diana Toebbe, by counsel Edward B. MacMahon, Jr., Esq. and Barry P. Beck, Esq., and, having met and conferred as required by Local Rule of Criminal Procedure 16.01(h)(2), hereby propose the following complex case schedule pursuant to Local Rule of Criminal Procedure 16.01(h)(3):

United States' Rule 16 UNCLASSIFIED Discovery "Rolling" Disclosure	
First	November 10, 2021
Second	January 14, 2022
Third/Final ¹	February 17, 2022

¹ Use of the word "final," here represents the government's intention that this disclosure will be its final Rule 16 disclosure of unclassified discovery. However, the government will remain under the obligation to supplement its Rule 16 disclosure of unclassified discovery after this date.

Exculpatory Evidence Disclosure	February 17, 2022
Reciprocal Discovery Disclosure	March 1, 2022
Pretrial Motions	March 21, 2022
Pretrial Motion Responses	March 28, 2022
Pretrial Motion Hearing	March 30, 2022
Rule 404(b), <u>Giglio</u> , and <u>Roviaro</u> Evidence Disclosure	April 11, 2022
<u>Jencks</u> Disclosure	April 11, 2022
Motions in Limine	April 18, 2022
Proposed Voir Dire and Jury Instructions	April 18, 2022
Witness and Exhibit Lists	April 18, 2022
Plea Agreement	April 25, 2022
Pretrial Conference	May 5, 2022
Jury Selection/Trial	May 17, 2022 (two to three weeks)

To date, adjudication of the requisite security clearances for defense counsel remains pending. Accordingly, this schedule does not include a disclosure deadline for classified discovery. In the event of timely adjudication, the parties intend to propose February 17, 2022 as the deadline for disclosure of classified discovery. The parties will propose that date or, if necessary, another date, once adjudication is complete.

WHEREFORE, the parties respectfully ask the Court to enter a new scheduling order using the proposed complex case schedule outlined above.

Respectfully submitted,

/s/ Jarod J. Douglas

Jarod J. Douglas

Assistant United States Attorney

/s/ Jessica Lieber Smolar

Jessica Lieber Smolar

Special Assistant United States Attorney

/s/ S. Derek Shugert

S. Derek Shugert

U.S. Department of Justice Trial Attorney

/s/ Matthew J. McKenzie

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U.S. Department of Justice Trial Attorney

/s/ Nicholas J. Compton

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Counsel for Defendant Jonathan Toebbe

/s/ Edward B. MacMahon, Jr.

Edward B. MacMahon, Jr.

Counsel for Defendant Diana Toebbe

/s/ Barry P. Beck

Barry P. Beck

Counsel for Defendant Diana Toebbe